



MINUTES

**BRYAN PLANNING AND ZONING COMMISSION
REGULAR MEETING
THURSDAY, MAY 3, 2007
AT 6:00 P.M.
COUNCIL CHAMBERS, BRYAN MUNICIPAL BUILDING
300 SOUTH TEXAS AVENUE, BRYAN, TEXAS**

Disclaimer: *The meeting minutes herein are a summarization of meeting proceedings, not a verbatim transcription.*

1. CALL TO ORDER

Chairperson Hughes called the regular meeting to order at 6:12 p.m.

Commission members present were: Mr. Michael Beckendorf, Mr. Johnny Bond, Mr. John Clark (Vice Chairperson), Mr. Ralph Davila, Mr. Art Hughes (Chairperson), Mr. G.H. Jones, Mr. Don Maxwell (Parliamentarian) and Mr. Michael Parks.

Commission members absent were: Mr. Robert Horton.

Staff members present were: Mr. Kevin Russell, Director of Development Services; Ms. Lindsey Guindi, Planning Manager; Mr. Martin Zimmermann, Senior Planner; Ms. Julie Fulgham, Staff Planner; Mr. Randy Haynes, Staff Planner; Ms. Janis Hampton, Assistant City Attorney; and Ms. Helen Serna, Planning Recorder.

2. HEAR CITIZENS

No one came forward.

3. RECOGNITION OF AFFIDAVITS FILED IN RESPONSE TO STATE LAW ON DISCLOSURE OF LOCAL OFFICIAL'S CONFLICT OF INTEREST

Commissioner Clark filed an affidavit in response to state law on disclosure of local official's conflict of interest regarding regular agenda item #8, Planning Variance PV07-19. Commissioner Clark will not participate in deliberation or voting on this agenda item.

4. CONSENT AGENDA (Items may be removed at the request of two Commission members.)

A. Approval of minutes from the workshop and regular meetings on April 19, 2007.

B. CONSIDERATION – Final Plat FP07-09

M. Zimmermann

Proposed final plat of Park Hudson Subdivision – Phase 8, consisting of 17.8 acres of land located near the southwest corner of Boonville Road (F.M. 158) and University Drive East (F.M. 60) in Bryan, Brazos County, Texas.

Commissioner Maxwell moved to approve the Consent Agenda. Commissioner Beckendorf seconded the motion.

Chairperson Hughes asked if there was any discussion.

There was none.

The motion passed with a unanimous vote.

REQUESTS FOR APPROVAL OF RESUBDIVISIONS

5. PUBLIC HEARING/CONSIDERATION – Replat RP07-07

J. Fulgham

Proposed replat of Lot 2 in Block 1 of the Emino Subdivision located in Bryan's extraterritorial jurisdiction (ETJ), consisting of 4.99 acres of land off of Elmo Weedon Road in eastern Brazos County Texas.

Ms. Julie Fulgham, Staff Planner, presented a staff report (on file in the Development Services Department). Ms. Fulgham advised the Commission that this request to replat one lot along Elmo Weedon Road totaling 4,998 acres, being Lot 2 in Block 1 of the Emino Subdivision, into two lots, being Lot 1R and Lot 2R in Block 1 of the Emino Subdivision for the purpose of constructing a single-Family development. Staff recommends approving this request.

The public hearing was opened.

No one came forward.

The public hearing was closed.

Commissioner Maxwell moved to approve Replat RP07-07. Commissioner Beckendorf seconded the motion.

Chairperson Hughes asked if there was any discussion.

There was none.

The motion passed with a unanimous vote.

REQUESTS FOR APPROVAL OF VARIANCES ON PROPERTY AT 2714 TODD STREET/2713 SOUTH TEXAS AVENUE, OCCUPYING LOT 7 IN BLOCK 15 OF THE MITCHELL-LAWRENCE-CAVITT SUBDIVISION, BRYAN, BRAZOS COUNTY, TEXAS. (Commission has final approval; appeals may be directed to City Council.)

6. PUBLIC HEARING/CONSIDERATION – Planning Variance PV07-17

J. Fulgham

A request for variance from the minimum 25-foot front building setback generally required on lots in commercial zoning districts, to legitimize previous construction of two storage sheds located within 18-feet and 20.2-feet from the front property line adjacent to Todd Street.

Ms. Julie Fulgham, Staff Planner, presented a staff report (on file in the Development Services Department). Ms. Fulgham advised the Commission that agenda items #6 and #7 concern the same property. Ms. Fulgham advised the Commission that the applicant was cited by the Code Enforcement Department for installing two storage sheds encroaching in the front and side building setbacks without the necessary building permits and site plan approval. The applicant is requesting a complete variance from the side building setback requirement (PV07-23) and a 7-foot variance from the front building setback requirement (PV07-17) to legitimize the placement of these two structures. Ms. Fulgham added that if the variances were approved, the applicant will be requesting a Conditional Use Permit to allow the larger of these two sheds to be converted into a residence at a future public hearing. Ms. Fulgham explained that minimum building setback standards are intended to help promote and preserve open space and to prevent the overcrowding of land with buildings. In this particular circumstance, staff believes that approving the requested variances will further diminish the already limited open space available on this site. Approving this proposed variance may also set an unwanted precedent. Staff recommends denying these requested variances.

Responding to questions from the Commission, Ms. Fulgham advised that the property is a double frontage lot with access to Texas Avenue and Todd Street; a minimum 25-building setback is required from both street rights-of-way.

The public hearing was opened.

Mr. Tim Stewart, of 2714 Todd Street, Bryan, Texas, applicant, came forward to speak in favor of the request. He advised the Commission that the storage buildings have been on the property since 1996 and 2000, respectively. Mr. Stewart also stated his belief that moving the buildings would be detrimental to his business.

Responding to questions from the Commission, Mr. Stewart advised that the white Morgan building has been on the property since 1996. It was moved about 20 feet to its current location 3 to 4 years ago. The 16' x 28' building is planned to be used as a 1 bedroom, 1 bathroom residence.

Responding to questions from the Commission, Mr. Kevin Russell, Director of Development Services, advised that between 1996 and 1998 a 16' x 28' storage building was placed in front of the main 30' x 40' building on this site. Mr. Stewart was notified then that he needed to submit a site plan. Mr. Stewart then put a "for sale" sign on the 16' x 28' building. At that point, approval of a site plan was no longer required. Mr. Russell advised that he was not sure exactly when Mr. Stewart moved the building to its current location. Mr. Russell added that parking lot improvements will be addressed during the site review process.

Responding to questions from the Commission, Mr. Stewart advised that the 16' x 28' building was bought to sell it. When it did not sell, it was moved to its current location and used for storage, not

realizing that that required site plan approval. Mr. Stewart also advised that he is planning on making improvements to the parking lot along Texas Avenue.

The public hearing was closed.

Commissioner Clark moved to deny Planning Variance PV07-17, accepting the findings of staff. Commissioner Maxwell seconded the motion.

Chairperson Hughes asked if there was any discussion.

Commissioner Bond stated that the houses next door are closer to the road than Mr. Stewart's buildings.

Commissioner Clark stated that the building has been moved around on the property without much thought and without site plan approval. He stated that the submitted site plan is not to scale and does not allow the Commission to make a valid judgment. He stated his belief that there are ways the buildings can be reconfigured and moved to comply with building setback standards.

Chairperson Hughes stated that he agreed with Commissioner Clark.

The motion passed with a vote of five (5) in favor, and three (3) in opposition. Commissioners Beckendorf, Bond and Jones cast the votes in opposition.

7. PUBLIC HEARING/CONSIDERATION – Planning Variance PV07-23

J. Fulgham

A request for a complete variance from the minimum 7.5-foot side building setback generally required on lots in commercial zoning districts, to legitimize previous construction of a storage shed that extends all the way to the southeast (side) property line.

Chairperson Hughes advised that the staff report for this item had been presented before the discussion of the previous agenda item (#6).

The public hearing was opened.

Mr. Tim Stewart, of 2714 Todd Street, Bryan, Texas, applicant, came forward to speak in favor of the request. He advised the Commission that the buildings are fire proof and are on skids. If he were required to move the buildings it will take away available parking spaces.

Ms. Pauline Stewart, of 2714 Todd Street, Bryan, Texas, came forward to speak in favor of the request. Ms. Stewart passed out pictures showing the property.

The public hearing was closed.

Commissioner Maxwell moved to deny Planning Variance PV 07-23, accepting the findings of staff. Commissioner Jones seconded the motion.

Chairperson Hughes asked if there was any discussion.

There was none.

The motion passed with a vote of seven (7) in favor, and one (1) in opposition. Commissioner Beckendorf cast the vote in opposition.

OTHER REQUESTS FOR APPROVAL OF VARIANCES Commission has final approval; appeals may be directed to City Council.)

Commissioner Clark filed an affidavit in response to state law on disclosure of local official's conflict of interest regarding the following regular agenda item #8, Planning Variance PV07-19. Commissioner Clark will not participate in deliberation or voting on this agenda item

8. PUBLIC HEARING/CONSIDERATION – Planning Variance PV07-19 M. Zimmermann

A request for variances from the minimum 275-foot separation distance required for driveway openings on major arterial streets, to allow a new driveway, proposed to be separated 167 feet from an existing adjacent street and 85 feet from an existing driveway on the opposite (west) side of South Texas Avenue, on property at 1711 South Texas Avenue at the north corner of South Texas Avenue and Wayside Drive, occupying Lot 1 in Block N of Cavitt's Woodland Heights Subdivision in Bryan, Brazos County, Texas.

Mr. Martin Zimmermann, Senior Planner, presented a staff report (on file in the Development Services Department). Mr. Zimmermann advised that the applicant is requesting variances from minimum driveway separation standards, which, if approved will allow a new driveway at the on Texas Avenue. An existing driveway on the subject property, located only a few feet from the intersection of Texas Avenue and Wayside Drive is proposed to be closed permanently. Staff contends that granting the requested variances in this particular case will neither be detrimental to the public health safety or welfare, nor materially injurious to properties or improvements in the area. Staff believes that the proposed driveway location in the middle of this lot's frontage along Texas Avenue will achieve the most likely long-range benefit, balancing both public (safety) and private (customer access) purposes. Denying the requested variances would allow access to this site only via a driveway on Wayside Drive, a local street that provides access to and from an established residential neighborhood. Staff believes that additional nonresidential traffic on Wayside Drive should be discouraged as much as possible. Staff recommends approving both requested variances.

The public hearing was opened.

No one came forward.

The public hearing was closed.

Commissioner Parks moved to approve Planning Variance PV07-19, as requested, accepting the findings of staff. Commissioner Davila seconded the motion.

Chairperson Hughes asked if there was any discussion.

Commissioner Parks remarked that he is glad to see people thinking ahead and propose shared access.

The motion passed with a unanimous vote. Commissioner Clark did not participate in deliberation or voting on this agenda item.

9. PUBLIC HEARING/CONSIDERATION – Planning Variance PV07-21

R. Haynes

A request for a 14-foot variance from the minimum 25-foot front building setback generally required on lots in residential zoning districts, to legitimize previous installation of a garage that extends within 11 feet from the front property line on property at 1906 Marshall Avenue, occupying Lot 14 in Block 6 of Milton Darwin's Subdivision Number 2 in Bryan, Brazos County, Texas.

Mr. Randy Haynes, Staff Planner presented a staff report (on file in the Development Services Department). Mr. Randy Haynes advised that the applicant was cited by the Code Enforcement Department for installing a garage in front of the existing single-family home, without building permits and without city site plan approval. This garage extends within 11 feet from this site's property line along Marshall Avenue from which a minimum 25-foot building setback is required. The applicant is requesting a 14-foot variance from the standard, to legitimize previous construction of this garage. Staff recommends denying this request for variance.

The public hearing was opened.

Mr. Michael Gutierrez, of 1908 Marshall Avenue, Bryan, Texas advised the Commission he will be translating for his uncle, Jose Contreras, of 1906 Marshall Avenue, Bryan, Texas. Mr. Gutierrez stated that his uncle sees no harm.

Responding to questions from the Commission, Mr. Gutierrez stated that this garage was built 6 years ago and he has owned the home for 16 years.

The public hearing was closed.

Commissioner Beckendorf moved to postpone consideration of Planning Variance PV07-21 to the Planning and Zoning Commission's regular meeting on June 7, 2007. Commissioner Bond seconded the motion.

Chairperson Hughes asked if there was any discussion.

Commission agreed that they need to study the issue of building setback encroachments and the implications of variance approvals for such encroachments.

The motion passed with a unanimous vote.

REQUESTS FOR APPROVAL OF REZONING (Commission makes recommendation; City Council has final approval.)

10. PUBLIC HEARING/CONSIDERATION – Rezoning RZ07-18

M. Zimmermann

A request to change the zoning classification from Residential District – 5000 (RD-5) to Residential - Neighborhood Conservation District (R-NC) on all lots in The Oaks Addition – 3rd Installment generally located between Barak Lane and Briar Oaks Drive, west of Carter Creek Parkway in south central Bryan, Brazos County, Texas.

Mr. Martin Zimmerman, Senior Planner presented a staff report (on file in the Development Services Department) Mr. Zimmerman advised that the property owners within The Oaks Addition, 3rd Installment have submitted a complete petition for a City-initiated zoning change from Residential District – 5000 (RD-5) to Residential – Neighborhood Conservation District (R-NC) on all 111 lots in

this subdivision phase. The subdivision plat for this subdivision phase was recorded in March 1969. Staff recommends approving R-NC zoning for this entire subdivision phase, as requested. Mr. Zimmermann added that staff has received two letters in opposition to this rezoning request. These letters had been distributed to the Commission during the workshop meeting.

The public hearing was opened.

No one came forward.

The public hearing was closed.

Commissioner Jones moved to recommend approval of Rezoning RZ07-18, as requested, accepting the findings of staff. Commissioner Bond seconded the motion.

Chairperson Hughes asked if there was any discussion.

There was none.

The motion passed with a unanimous vote.

11. PUBLIC HEARING/CONSIDERATION – Rezoning RZ07-19

M. Zimmermann

A request to amend the development plan of a previously-approved Planned Development – Mixed Use (PD-M) District, specifically by modifying the range of allowed land uses on approximately 60 acres of land out of approximately 340 acres of land located at the southwest corner of Boonville Road (F.M. 158) and University Drive East (F.M. 60), commonly known as Pak Hudson development, in Bryan, Brazos County, Texas.

Mr. Martin Zimmermann, Senior Planner presented a staff report (on file in the Development Services Department) Mr. Zimmermann advised that Bryan Development, Ltd. wish to amend the approved development plan for the Park Hudson Planned Development district as it relates to 60 acres they own. Specifically, they propose to amend the range of permitted land uses on these 60 acres. The applicants wish to remove certain land uses from the list of currently permitted uses on this property. They also propose to add some land uses that are not currently permitted on these 60 acres, to also allow residential uses in addition to certain office, retail and commercial uses on this currently vacant acreage. The proposed amended development plan also shows 41+ acres that are owned by the City of Bryan to be restricted to parkland development. This is the area of the planned Park Hudson Trail. Mr. Zimmermann explained that any future development on this acreage will still be subject to ordinary City of Bryan site development review. The subdivision of land will be allowed in accordance with the City of Bryan Subdivision Ordinance.

Staff contends that the proposed range of permitted land uses, which includes residential as well as certain office, retail and commercial uses will be compatible with existing and permitted uses on abutting sites, in terms of use, building height, bulk and scale, setbacks and open spaces, landscaping, drainage, and access and circulation features. Staff believes that the proposed range of permitted land uses is overall less intense than what could develop at this location under the current development plan. Staff is unable to identify any potentially unfavorable effects or impacts on other existing or permitted uses on abutting sites that cannot be mitigated by the provisions of the PD District. Staff recommends approving the proposed development plan amendment, as requested. Mr. Zimmermann

added that 235 property owners were formally notified of this request. Staff did not receive and written comments in favor or in opposition.

The public hearing was opened.

No one came forward.

The public hearing was closed.

Commissioner Bond moved to recommend approval of Rezoning RZ07-19, as requested, accepting the findings of staff. Commissioner Beckendorf seconded the motion.

Chairperson Hughes asked if there was any discussion.

There was none.

The motion passed with a unanimous vote.

12. COMMISSION CONCERNS

There were none.

13. ADJOURN

Without objection, Chairperson Hughes adjourned the meeting at 7:45 p.m.

These minutes shall serve as the official findings of the City of Bryan Planning and Zoning Commission, as approved on this the **17th** day of **May, 2007**.

Art Hughes, Chairperson
Planning and Zoning Commission
City of Bryan, Texas

Lindsey Guindi, Planning Manager and
Secretary to the Planning and Zoning
Commission